

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

SEAN PATRICK BURKE, <i>et al.</i> ,	:	
Plaintiffs,	:	
	:	
v.	:	Civil No. 5:23-cv-01959-JMG
	:	
CHIEF EDWARD BACHERT, <i>et al.</i> ,	:	
Defendants.	:	

ORDER

AND NOW, this 20th day of November, 2023, upon consideration of Defendant Base Engineering, Inc. *et al.* Motion to Dismiss for Failure to State a Claim (ECF No. 25), Defendant Zurick's Motion to Dismiss Plaintiffs' Amended Complaint (ECF No. 33), Plaintiffs' Response in Opposition to Defendant Zurick's Motion to Dismiss (ECF No. 41), Defendant Base Engineering, Inc. *et al.* Motion to Dismiss the Amended Complaint for Failure to State a Claim (ECF No. 34), Plaintiffs' Response in Opposition to Defendant Base Engineering, Inc. *et al.* Motion to Dismiss the Amended Complaint (ECF No. 42), Defendant Bachert *et al.* Motion to Dismiss the Amended Complaint for Failure to State a Claim (ECF No. 37), and Plaintiffs' Response in Opposition to Defendant Bachert *et al.* Motion to Dismiss the Amended Complaint (ECF No. 43),

IT IS HEREBY ORDERED that Defendant Base Engineering, Inc. *et al.* Motion to Dismiss for Failure to State a Claim (ECF No. 25) is **DENIED as moot**.

IT IS FURTHER ORDERED that Defendant Zurick's Motion to Dismiss Plaintiffs' Amended Complaint (ECF No. 33) is **GRANTED in part** and **DENIED in part**.

- a. Defendant Zurick's Motion is **GRANTED** as to Counts I, II, and III.
- b. Defendant Zurick's Motion is **DENIED** as to Counts IV and V.

IT IS FURTHER ORDERED that Defendant Base Engineering, Inc. *et al.* Motion to Dismiss the Amended Complaint for Failure to State a Claim (ECF No. 34) is **GRANTED in part** and **DENIED in part**.

- a. Defendants' Motion is **GRANTED** as to Base Engineering, Inc. on Counts I and II.
- b. Defendants' Motion is **GRANTED** as to Witman, Campion, Knoll, and Cohen on Counts I, II, III, and IV.
- c. Defendants' Motion is **DENIED** as to Witman, Campion, Knoll, and Cohen on Count V.

IT IS FURTHER ORDERED that Defendant Bachert *et al.* Motion to Dismiss the Amended Complaint for Failure to State a Claim (ECF No. 37) is **GRANTED in part** and **DENIED in part**.

- a. Defendants' Motion is **GRANTED** as to Penn, Vazquez, Tosado, and Krasley on Counts I, II, III, IV, and V.
- b. Defendants' Motion is **GRANTED** as to Fritzinger and Devers on Counts II, III, and IV.
- c. Defendants' Motion is **DENIED** as to Fritzinger and Devers on Counts I and V.
- d. Defendants' Motion is **GRANTED** as to Bachert on Counts I and V.
- e. Defendants' Motion is **DENIED** as to Bachert on Counts II, III, and IV.
- f. Defendants' Motion is **GRANTED** as to Gratz on Counts I, II, III, and V.
- g. Defendants' Motion is **DENIED** as to Gratz on Count IV.

IT IS FURTHER ORDERED that the Clerk of Court is **DIRECTED** to **TERMINATE** the case as it pertains to Defendants Penn, Vazquez, Tosado, Krasley, and Base Engineering, Inc.

BY THE COURT:

/s/ John M. Gallagher
JOHN M. GALLAGHER
United States District Court Judge